

## §21.312

based upon fewer clock hours of attendance than provided in that regulation.

(c) *Combination and cooperative programs.* The rate of pursuit of a program which combines institutional training and on job training will be measured as follows:

(1) The institutional part will be assessed under §§21.4270 through 21.4275, and

(2) The on-the-job part will be assessed under paragraph (b)(1) of this section.

(d) *Rehabilitative services.* Measurement of the rate of pursuit for veterans in programs consisting primarily of services designed to evaluate and improve physical and psychological functioning will be assessed under this paragraph.

(1) The services assessed under this paragraph include:

(i) Evaluation and improvement of the rehabilitation potential of a veteran for whom attainment of a vocational goal is reasonably feasible;

(ii) Extended evaluation to determine whether attainment of a vocational goal is reasonably feasible; or

(iii) A program of independent living services to enable a veteran to function more independently in his or her family and community when attainment of a vocational goal is not reasonably feasible.

(2) Measurement of the rate of pursuit for services and programs named in paragraph (d)(1) of this section will be:

(i) As provided in paragraph (a) of this section for services furnished by educational institutions; or

(ii) According to the noneducational facility's customary criteria for full-time and part-time pursuit. If the facility does not have established criteria for full-time and part-time pursuit, or services are being provided by more than one facility, the rate of pursuit will be assessed in the following manner:

Rate of pursuit	Clock hours per month
Full-time .....	120 or more.
Three-quarter time <sup>1</sup> .....	90–119.
Half-time <sup>1</sup> .....	60–89.
Quarter-time <sup>1</sup> .....	30–59.

<sup>1</sup> Extended evaluation and independent living.

## 38 CFR Ch. I (7–1–10 Edition)

(Authority: 38 U.S.C. 3108(d))

### §21.312 Reduced work tolerance.

(a) *General.* VA will consider that a veteran with reduced work tolerance is pursuing a rehabilitation program full-time when the amount of time the veteran is devoting to his or her program is as great as the effects of his or her disability (service and nonservice-connected) will permit.

(b) *Pursuit of a program.* A veteran with reduced work tolerance may pursue a rehabilitation program when the following conditions are met:

(1) Reduced work tolerance has been determined.

(2) Achievement of the goals of the program are reasonably feasible;

(3) The IWRP (Individualized Written Rehabilitation Plan) or other plan provides for completion of the program under Chapter 31.

(c) *Redetermination of work tolerance.* As necessary, but not less than once yearly, the veteran's work tolerance will be reevaluated. The rate of pursuit required to meet the standard of full-time pursuit will be modified if there is either an increase or decrease in the work tolerance of the veteran.

(d) *Payment of allowance.* A veteran with a reduced work tolerance will be paid a subsistence allowance, at the full-time rate for the type of program being pursued, when the veteran meets the standard for full-time pursuit established for him or her in the Plan. A veteran with reduced work tolerance, who elects benefits at the Chapter 34 rate, will have to meet normal attendance requirements for that chapter, however.

(e) *Determining work tolerance.* A VA physician will make all determinations and redeterminations of work tolerance.

(Authority: 38 U.S.C. 3108(d))

### §21.314 Pursuit of training under special conditions.

A veteran is required to pursue a rehabilitation program at a rate which meets the requirement for full- or part-time participation described in §§21.310 and 21.312. However, a veteran may pursue a rehabilitation program at a lesser rate, if such pursuit is a part of the

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veteran's plan. Subsistence allowance is not payable during such periods.

(Authority: 38 U.S.C. 3108(d))

### AUTHORIZATION OF SUBSISTENCE ALLOWANCE AND TRAINING AND REHABILITATION SERVICES

#### § 21.320 Awards for subsistence allowance and authorization of rehabilitation services.

Awards providing for payment of a subsistence allowance and authorization of services necessary for rehabilitation may be prepared when an IWRP (Individualized Written Rehabilitation Plan) or other plan has been completed and other requirements for entrance or reentrance into a rehabilitation program have been met.

(a) *Commencing date of subsistence allowance.* The commencing date of an award of subsistence allowance will be determined under the provisions of § 21.322.

(b) *Commencing date of authorization of training and rehabilitation services.* The commencing date for authorization of training and rehabilitation services is the same as the effective date for awards for subsistence allowance under provisions of § 21.322, except when:

(1) The commencing date for authorization of a program of employment services is determined under provisions of § 21.326;

(2) An earlier commencement date is established in the veteran's plan or the veteran is entitled to earlier induction under § 21.282;

(3) The veteran elects payment at the educational assistance allowance rate, in which case the commencing date of payment is determined under provisions applicable to commencement of payment under Chapter 30.

(Authority: 38 U.S.C. 3108 (a) and (f))

(c) *Ending date of subsistence allowance.* The ending date of an award for subsistence allowance will be the earliest of the following dates:

(1) The ending date provided in the veteran's IWRP or other plan;

(2) The ending date of a period of enrollment as certified by a training or rehabilitation facility;

(3) The ending date specified in § 21.324.

(Authority: 38 U.S.C. 3108)

(d) *Ending date for training and rehabilitation services.* The ending date of training and rehabilitation services will be the same as the termination date for subsistence allowance under paragraph (c) of this section, except when:

(1) The ending date for a period of employment services is determined under provisions of § 21.326;

(2) A later termination date is established in the veteran's plan;

(3) A veteran has elected payment at the educational assistance rate paid under Chapter 30. The ending date of the award is determined under regulations applicable to termination of training under Chapter 30.

(Authority: 38 U.S.C. 3108 (a) and (f))

[49 FR 40814, Oct. 18, 1984, as amended at 54 FR 4284, Jan. 30, 1989; 57 FR 57108, Dec. 3, 1992]

#### § 21.322 Commencing dates of subsistence allowance.

(a) *General.* VA will determine the commencing date of an award or increased award of subsistence allowance under this section. VA will not authorize subsistence allowance for any period prior to the earliest date for which disability compensation is payable or would be payable but for the veteran's receipt of retired pay.

(Authority: 38 U.S.C. 3108, 3113)

(b) *Entrance or reentrance into vocational rehabilitation, extended evaluation, independent living services.* Except in the case of retroactive induction into a rehabilitation program, as provided in § 21.282, the commencing date of an award of subsistence allowance shall be the earlier of:

(1) The date the facility requires the veteran to report for prescribed activities; or

(2) The date training or rehabilitation services begin.

(c) *Increases for dependents*—(1) *Dependency exists at the time of entrance or reentrance into a rehabilitation program.* A veteran may have one or more dependents on or before the date he or